A Study on ADR System with Special Reference to Permanent Lok Adalat in State of Punjab

A

Synopsis

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Declaration

I Satnam Singh a Research Scholar of Degree of Philosophy in Law of University School of Law, Desh Bhagat University, Mandi Gobindgarh, Punjab with Roll No. 21380402010 do hereby declare that this Synopsis of Research work on "**A Study on ADR System with Special Reference to Permanent Lok Adalat in State of Punjab"** is an original work of me and is a result of my intellectual efforts. I have quoted titles of all original sources i.e. original documents and name of the authors whose work has helped me in writing this research work has been placed at appropriate places. I have not infringed the copyrights of any other author.

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1. Introduction

> "If the court were not to stand by the principles which we have formulated, we may witness a soulful requiem to liberty"[1].
>
> "These testing times have resulted in new innovations. We have to learn to embrace new ways for the betterment of society."
>
> **- Hon'ble Justice N.V. Ramana[2]**

Justice & equality is Fundamental feature of our Indian legal system. Every one entitled to access to justice without any discrimination. Justice is acknowledged as one of the most important deliverables to be guaranteed for the Indian people in the Preamble to the Indian Constitution. According to Article 39A of the Indian Constitution, the State must provide people who are disadvantaged owing to economic, geographic, or other inequalities with free access to justice and legal representation. According to Articles 14 and 21 of the Indian Constitution, access to justice is recognised as a fundamental right[3]. Free legal assistance is emphasized in Article 39A of Indian Constitution as an essential component of reasonable, fair and just procedure because without it, a person with a disability would not be able to receive the legal assistance they need[4]. The chance to obtain justice would be denied to people with financial or other difficulties. As a result, it is obvious that the right to free legal representation must be considered implicit in the promise made by Article 21 in order for there to be a reasonable, fair, and just procedure[5] for someone who has been accused of a crime. Every accused person has a constitutional right to get legal representation if they are unable to afford one due to circumstances like poverty, indigence, or being isolated. If these conditions apply, the

[1]RomilaThapar & Others v. Union of India, Writ Petition (Cri.) No. 2018.
[2] Annual Report , 2020-2021, National Legal service Authority
[3] Annual Report, 2021-2022, Law Commission of India.
[4]Article 39A, Constitution of India., 1950.
[5] Maneka Gandhi v. Union of India, AIR 1978 SC 597.

State is required to give representation to the accused person[6].The State is required to provide a lawyer to an accused person if the circumstances of the case and the needs of justice so require provided, of course, that the accused person does not object to the provision of such lawyer. This is a constitutional right of every accused person who is unable to engage a lawyer and secure legal services due to factors such as poverty, indigence, and situation[7].

The efficient method of delivering justice in any form of governance is a constant requirement for harmony, order, civilization, and government of the nation. Just as pollution contaminates the environment, social climate is tainted by the flawed justice system. Equal and a hallmark of any civilized society is just justice. Access to justice for all is fundamental feature of the Indian constitution. The preamble of the Constitution of India directed the justice in social, economics & political form to all. It is a pertaining in establishment of better administration of Justice[8].

2. Concept of ADR System

The idea of ADR is not new to Indian culture. The study of legal literature helps us to know that arbitration or other processes for settling conflicts have been used in India for resolving issues involving family, trade, or a social group from the distant past. The function of private individuals (arbitrators) in panchayats, Pugas, Srenis, and Kulas is shown by the study of ancient legal history. The Panchayat system is the most important of the several systems used in India. Panchayats were made up of five older members of the village who were supervised by the headman because the word Pancha meant five. An early example of self-government in India was the Panchayat system, which served primarily as a forum for dispute resolution.

[6]Hussainara Khatoon & Ors v. Home Secretary, State of Bihar, AIR1979 SC 1369.
[7] Ibid.
[8] Dr. S.C. Tripathi,, Alternative Dispute Resolution (ADR), 120, (3ed.,2018)

ADR system has cooperated reduce the dispute on ground level. Although there are historical examples of the usage of various forms of ADR in India, the nineteenth century saw the beginning of the field's legal growth. Arbitration was one of the first ADR processes in India to be accepted by the law[9]. Act VIII of 1859, which standardized the procedure of civil courts, is credited with being the foundation of arbitration law in India. The English Act of 1899 served as the basis for the British government's 1899 adoption of the Arbitration Act. The Civil Justice Committee made a number of recommendations for revisions to the arbitration statute in 1925. The Arbitration Act of 1940 was enacted by the Indian Legislature in accordance with the recommendations made by the Civil Justice Committee.

After independence, Indian parliament has passed two Act, Legal Service Authority Act, 1987 and Arbitration & Conciliation Act, 1996, which is played basic role to implication of ADR System on top to bottom in the society[10]. The Indian Constitution's Article 39A guarantees equal justice for all people by offering free legal assistance to the society's impoverished and weaker groups. The Indian Constitution under Articles 14 and 22(1) further require the State to guarantee equality before the law and a legal system that advances justice based on equal opportunity for all. The Legal Services Authorities Act was passed by the Parliament in 1987, and it went into effect on November 9th, 1995. Its purpose was to create a nationwide uniform network for the provision of competent and free legal services to the less fortunate members of society on the basis of equal opportunity. The Legal Services Authorities Act of 1987 established the National Legal Services Authority (NALSA) to oversee and evaluate implementation of legal aid programmes in India.

[9] Mediation Centre, Punjab & Haryana High Court, Assess on 15.02.2023 From https://highcourtchd.gov.in/1_mcchc/?trs=history

[10] Mediation & Conciliation Rule, assess on 15.02.2023 from –Punjab & Haryana High Court https://highcourtchd.gov.in/sub_pages/left_menu/Rules_orders/adr_rules/mediationrules.pdf

In Punjab, High Court Punjab& Haryana has made a rule related ADR System Implementation on ground level known as Chandigarh Arbitration Centre (CAC)(Arbitration Proceedings) Rules, 2018. Under this rule prescribed appointment body, qualification and procedure regarding medication and conciliation, not follow Procedural law, and administrative assistance[11].

Many other rule regulations are prompted development of permanent lok adalat in State of Punjab. The Supreme Court Legal Service Committee Regulations, 1996, the National Legal Service Authority Rules, 1995, and the permanent Lok adalat (Other Terms & Conditions of Appointment of Chairman & other persons) Rules 2003 are given new dimensions to free legal aid, promotion of ADR System & permanent lok adalat.

3. Concept of Permanent Lok Adalats

The address significant flaw in the current Lok Adalat organization plan under Chapter VI of the Legal Services Authorities Act of 1987 where, if the parties are unable to reach a compromise or settlement, the case is either sent back to court or the parties are encouraged to seek relief in court, which delays the administration of justice needlessly[12]. The Chapter VI-A to the Legal Service Authority Act, 1987 which took effect on June 11, 2002 establishes a Permanent Lok Adalat to handle pre-litigation, conciliation, and settlement of issues relating to public utility services, as specified under Section 22-A of the Act, at the pre-litigation stage itself[13]. Annual report of Ministry of Justice, Government of India released data related disposed cases, pending cases, and pre-litigation cases by National Lok adalats in 2021.

[11] Chandigarh Arbitration Centre (CAC)(Arbitration Proceedings) Rules, 2018
[12] Paranjape, Prof. N.V. Law Relating to Arbitration and Conciliation in India, 107, (9th edn., 2020).
[13] Ibid.

2021		
1.	Disposed Cases	1,27,87,32
2.	Pending Cases	55,81,117
3.	Pre-litigation Cases	72,06,212

Sources: Annual Report of Ministry of Law & Justice, GOI

Recently, in Punjab with 447 benches of the Lok Adalat, which was presided over by Justice Ajay Tewari, a judge on the Punjab and Haryana High Court and the executive director of the Punjab State Legal Services Authority, 1,73,910 cases (pre-litigative and pending) were resolved[14]. Every Saturday, physical and virtual events for the National Lok Adalat were held all over the state. The permanent Lok Adalat were resolved cases connecting family issues, disputes related to property, labour issues, check bounce cases, matter related compoundable in criminal nature, cancellations and untraced reports of various FIRs etc[15]. Today Permanent Lok Adalat is better platform to resolved petty matter in speedy method. ADR System and lok adalat process both are correlated concept it played role to reduce burden of cases on higher judiciary and provide justice in speedy way. Punjab state is a very modernized so state also adopts ADR System and lok adalat process in respective court. The research has chosen this phenomenon on A Study on ADR System with Special Reference to Permanent Lok Adalat in State of Punjab for the study purposes[16].

[14] The Indian express Journalism of Courage News Paper, assess on 15.02.2023.
[15] Ibid.
[16] Dr. U. Pattabhi Ramiah, Arbitration and ADR (Including Conciliation, Mediation and Negotiation) (2015).

4. Literature Review

Dr. S. D. Moharana's (2010) explained Legal aid communicates the support given by society to its weaker individuals in their attempts to safeguard their rights and freedoms. While women become a weaker segment of society, everyone has the constitutional right to swift justice under Article 21. So both couples have a right to legal representation. Legal aid simply refers to legal advice, which is provided before a case is ever filed. With the help of such guidance, a knowledgeable individual in the legal field listens to the person with the issue and offers advice on how to address it. The recommendation may be to do so, to avoid litigation, or it may delay. To improve the Lok Adalats mechanism ad alternative dispute resolution procedures, to offer for informal, quick, cheap, and efficient dispute resolution.[17].

The significance of ADR is explained by Dr. Tripathi SC (2010). Without a doubt, the system of judicial or adjudication needs to be drastically improved, and policymakers are required to come up with new alternatives mechanism. The Arbitration and Conciliation Act and the Legal Service Authority Act were both introduced by the Indian parliament while taking the legal element into consideration[18]. Alternative methods are required for peaceful dispute resolution, swift justice, cost-effective resolution, time-saving management, and legal recognition. Marital problems have a direct impact on people's lives. Consequently, the demand for swift justice is crucial. Every person has the right to swift justice in addition to the right to justice generally. According to Frank Sander who is a law expert in Harvard Law School, judiciary should responsible to resolve disputes and provide speedy justice. It ought to provide several dispute resolution options that are adapted to the range of disputes. Regrettably, Lok Adalat appears to have received less attention up to this point from

[17] Annual Report 2020-2021, National Legal Service Authority.
[18] Ibid.

legislators, judges, attorneys, and even litigants in the general public. Actually, there is a dearth of knowledge on Lok Adalat's advantages and methods of operation[19]. According to Upendra Baxi & Marc Galanter (1979), explained quality of justice fundamental objects of Legal Assistance[20]. M.V. Vaijayanthi (1999), has explained various significant & relevency of alternative dispute resolution mechanism in his book International Law Governing Commercial Arbitration[21]. Access to justice is fundamental for rural area and poor persons[22].

5. Research Statement

Increased public reliance on the sole judicial forum is a result of civilization, promotion of democracy, development of corporate, public utility services, awareness of fundamental and individual rights, etc. These factors have greatly complicated the new rights and remedies. An uncontrollable eruption of lawsuits resulted from this. Instead of being temples of swift justice, the overcrowded courtrooms have transformed into an uncomfortable compulsive forum. People tend to either avoid lengthy formal processes or start using extrajudicial remedies rather than standing in line for years and passing litigation on through inheritance. Finding potential solutions to this problem has therefore become crucial.

6. Research Question

i) Whether Punjab State Legal Service authority has implemented legal aid service?

ii) What is the ADR system?

iii) How to the ADR System & Lok Adalat are functioning on implemented legal aid service?

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19 Frank Sander was a associate Dean in Harvard Law School and in expertise of Alternative Dispute Resolution.

[20]Upendra Baxi, Access, Development And Distributive Justice : Access Problems of The Rural Population, Vol. 18, No. 3, pp. 375-430,(1976).

[21] M.P. Jain. Indian Constitution Law, 1511, (6th edn., 2013).

[22] Ibid.

iv) Whether Indian Judiciary has been passed rule regulation related to ADR System & Permanent Lok Adalat.

v) Why ADR System & Lok Adalat has become basic part of access of justice in India?

7. Need of the Research Work

This research work will bring speedy justice & promotes ADR system and implementation of Permanent Lok Adalat in the Punjab State as well as whole India. After review of literature many doctrinal research work completed in this field in India, study of this problem related in Punjab has not been made. The research topic of A Study on ADR system with special reference to Permanent Lok Adalat in State of Punjab is needed to find out theorical & practical implementation of Permanent Lok Adalat in the Punjab State.

8. Gap of Research

From literature review the find gap of research is related to ADR system & Permanent Lok adalat only find books & article on the problem no found socio-legal research related to it. The researcher also found only research of ADR system & Permanent Lok adalat on India level not related to Punjab state. The study fill the gap of research related to ADR system & Permanent Lok adalat in state of Punjab.

9. Hypotheses

The researcher formulated in the beginning of the study is:

1. The ADR & Permanent Lok Adalat getting resolved a large number of cases in Punjab state.

2. Recently, ADR & Permanent Lok Adalat provides platform regarding legal assistance to public at large in Punjab.

10. Objectives of Research Work

The researcher formulate objectives of the research work is-

1. To Analyse historical & philosophical view of Lok Adalat & ADR System.

2. To find out constitutional & legislative obligation regarding Permanent Lok Adalat & ADR System.

3. To find out significant of Lok Adalat & ADR System on international scenario.

4. To understand judicial guidance & direction related to ADR System & permanent Lok Adalat.

5. To study the execution of permanent Lok Adalat in Punjab State.

11. Research Methodology

In this research work, the research adopts the doctrinal & socio-legal research methodology. Collect data related Percentage of cases resolved through Lok Adalat Authority in Punjab Legal Service Authority.

Data and Methods

In carrying out this research, the researchers divide the data into two parts:

1. **Documentary Study:** collect data from legal documents and case study, law commission reports, Ministry of Law & Justice, journals & articles, websites, published & unpublished.

2. **Field Study:** data collection from office of permanent lok Adalat of Punjab State. Samples of Study divided in three parts

1. Interview from lawyer & member of permanent lok Adalat - 100

2. General public -200

3. Judges -30

12. Chapterization

1. Introduction

2. Concept of Justice, ADR System & Permanent Lok Adalats

3. ADR System & Permanent Lok Adalats: National & International Framework

4. Field Study Related to ADR System & Permanent Lok Adalats in Punjab State

5. Judicial Intervention towards ADR System & Permanent Lok Adalats

6. Conclusion & Suggestions

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1. Introduction
"If the court were not to stand by the principles which we have formulated, we may witness a soulful requiem to liberty" 1 .
Justice & equality fundamental is feature of our Indian legal system. Every one entitled to access to justice without any discrimination. Justice is acknowledged as one of the most important deliverables to be guaranteed for the Indian people in the Preamble to the Indian Constitution. According to Article 39A of the Indian Constitution, the State must provide people who are disadvantaged owing to economic, geographic, or other inequalities with free access to justice and legal representation. According to Articles 14 and 21 of the Indian Constitution, access to justice is recognised as a fundamental right 2 . Free legal assistance is emphasized in Article 39A of Indian Constitution as an essential component of reasonable, fair and just procedure because without it, a person with a disability would not be able to receive the legal assistance they need 3 . The chance to obtain justice would be denied to people with financial or other difficulties. As a result, it is obvious that the right to free legal representation must be considered implicit in the promise made by Article 21 in order for there to be a reasonable, fair, and just procedure 4 for someone who has been accused of a crime. Every accused person has a constitutional right to get legal representation if they are unable to afford one due to circumstances like poverty, indigence, or being isolated. If these conditions apply, the State is required to give representation to the accused person 5 .The State is required to provide a lawyer to an accused person if the circumstances of the case and the needs of justice so require provided, of course, that the accused person does not object to the provision of such lawyer. This is a constitutional right of every accused person who is unable to engage a lawyer and secure legal services due to factors such as poverty, indigence, and situation. The efficient method of delivering justice in any form of governance is a constant requirement for harmony, order, civilization, and government of the nation. Just as pollution contaminates the environment, social climate is tainted by the flawed justice system. Equal and a hallmark of any civilized society is just justice. Access to justice for all is fundamental feature of the Indian constitution. The preamble of the Constitution of India directed the justice in social, economics & political form to all. It is a pertaining in establishment of better administration of Justice. 2. Concept of ADR System The idea of ADR is not new to Indian culture. The study of legal literature helps us to know that arbitration or other processes for settling conflicts have been used in India for resolving issues involving family, trade, or a social group from the distant past. The function of private individuals (arbitrators) in panchayats, pugas, srenis, and kulas is shown by the study of ancient legal history. The Panchayat system is the most important of the several systems used in India. Panchayats were made up of five older members of the village who were supervised by the headman because the word Pancha meant five. An early example of self-government in India was the Panchayat system, which served primarily as a forum for dispute resolution.